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January 26, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

OUR FILE NO.
1137-103-63

Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

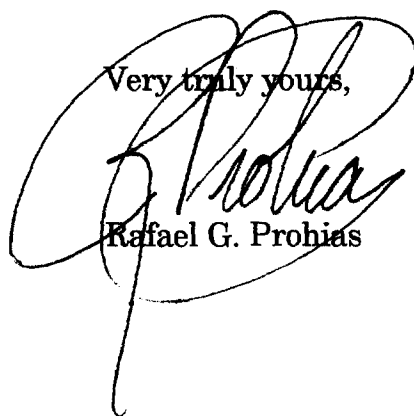
Re: Petition for Rulemaking
Faircom Flint Inc.
Clio, Michigan

Dear Ms. Salas:

Transmitted herewith, on behalf of Faircom Flint Inc., licensee of FM Radio Station WWBN, Tuscola, Michigan, is an original and four (4) copies of a Petition for Rulemaking seeking to amend Section 73.202(b) of the Commission's Rules, by deleting Channel 268A from Tuscola, Michigan, and allotting Channel 268A to Clio, Michigan, as that community's first local aural service.

Kindly communicate any questions regarding this matter directly to this office.

Very truly yours,


Rafael G. Prohias

RGP/ned

No. of Copies rec'd 024
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Before the
Federal Communications Commission

Washington, D.C. 20554

In The Matter Of

Amendment of Section 73.202(b))	MM Docket No.
Table of Allotments,)	RM-
FM Broadcast Stations)	
Tuscola, Michigan and)	
Clio, Michigan)	

To: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

Petition for Rulemaking

Faircom Flint Inc., ("Faircom"), through counsel, hereby requests that the Commission institute a rulemaking proceeding to amend Section 73.202(b) of the Commission's Rules, the Table of FM Allotments, by deleting Channel 268A from Tuscola, Michigan, and allotting Channel 268A to Clio, Michigan, as that community's first local aural service.¹

I. ARGUMENT.

Faircom is the licensee of WWBN(FM), currently licensed to the community of Tuscola, Michigan. Faircom seeks to change WWBN's community of license from Tuscola, Michigan to Clio, Michigan, because Faircom has determined that Clio has an overwhelming need for the provision of its first aural service.

¹ While it has imposed a temporary freeze on the filing of further applications in all commercial broadcast services, the Commission will continue to accept and process petitions for rulemaking requesting the allotment of new FM channels to the FM Table of Allotments. See *Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, MM Docket No. 97-234, FCC 97-397, at para. 61 (released November 26, 1997).

Clio is an incorporated city, located in Genesee County, with a population of 2,629 persons, based on 1990 U.S. Census data, with a Mayor and city council form of government. Clio offers its residents a diverse selection of municipal services, businesses and cultural resources. Children in Clio attend a local elementary school and high school. In their leisure time, students also visit the Ligon Outdoor Center, which serves the educational and recreational needs of students and educators in the Genesee and Lapeer Intermediate School District service areas. Located in Clio, the Center, a diverse 268-acre parcel of land, provides teachers and students a place to enjoy and participate in outdoor arts, research projects, cross-country skiing, hiking, stargazing and other outdoor education curriculum development.

The residents of Clio are cared for by doctors, dentists and local police and fire departments. Major attractions in Clio include the Clio Cast and Crew, the local theater group, which has led the town in the building of an Art Center and Amphitheater, and puts on spring, summer and fall productions. The group also has recently added a winter and spring youth production by the Clio Electric Youth Theater, a small division of the Clio Cast and Crew. What Clio lacks is its own radio station.

Faircom has determined that Channel 268A can be allocated to the city of Clio as its first local aural service. An engineering study of the proposed allocation, demonstrating compliance with the technical standards for allocating a new channel, is attached hereto as *Exhibit A*. The proposed Channel 268A allotment can be awarded to Clio with a site restriction of 9.60 kilometers north northwest of the city, in full compliance with the FM spacing rules. For purposes of the allocation, the reference coordinates for Clio are North Latitude 43° 15' 47" and West Longitude 83° 45' 40". No other full service broadcasters are affected by this proposal and operations

from these coordinates would provide city grade service levels as set forth in Section 73.315 of the Commission's Rules.²

Should the Commission amend the FM Table of Allotments as requested herein, Faircom will promptly file an application for modification of its license, construct the modified facilities, place those facilities in operation, and will seek a license covering the Clio facility.

The proposal set forth in this Petition is consistent with the procedures authorized in *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), as modified by *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094 (1990) ("*Community of License MO&O*"). Allotting Channel 268A to Clio would permit Clio to receive its first local aural channel, thereby serving the highest of the Commission's existing allocation priorities. "There are virtually no populated areas of the country where our higher allotment priorities, such as first reception service, have not been attained. Therefore, as a practical matter, provision of first local aural service is the highest of our allotment priorities which remains in any significant degree unsatisfied."³

Faircom recognizes that while its proposal would provide a first local aural transmission service to Clio, it also would remove from Tuscola its current sole local service, since WWBN is the only station currently licensed to serve the Tuscola community. However, although the *Community of License MO&O* restricts the removal of a community's sole local broadcast service, a waiver of the prohibition will be considered "in the rare

² It should be noted that the allotment of Channel 268A at Tuscola is a specially negotiated short-spaced allotment with Sarnia, Ontario, Canada. See *Coleman, Sebewaing, and Tuscola, Michigan*, 11 FCC Rcd 11286, 11289 (1996).

³ 5 FCC Rcd at 7097, para. 16.

circumstances where the removal of a local service might serve the public interest.”⁴

Faircom’s proposal would so serve the public interest. First, Faircom’s proposal would provide first reception service to a significantly sized population. As stated above, Clio is an incorporated city, with a population of 2,629 people. Tuscola, on the other hand, is not incorporated, is not listed in the 1990 U.S. Census, and has an estimated population of just 100 persons.⁵

Pursuant to Faircom’s proposal, WWBN would serve a larger number of area residents than it would under its currently authorized facilities. As evidenced by the Supplemental Engineering Statement attached as *Exhibit B* hereto, at the present site authorized for WWBN, the predicted population within the 60 dBu service contour is 185,129 people. *See Exhibit B*, p. 1. Pursuant to Faircom’s proposal, however, at the reference site proposed for the allocation at Clio, 369,186 people would reside within the protected WWBN service area. *Id.* Faircom’s proposal would thus provide service to an additional 184,057 persons — representing a 99.4 percent increase in population coverage.

Additionally, a new, 6 kW FM frequency, 93.7 MHz, is about to be licensed to Frankenworth, Michigan. This community is approximately 4 miles from Tuscola. Therefore, the new Frankenworth station will provide city-grade service to Tuscola.

Finally — and perhaps more importantly — operation from the reference site proposed for Clio would place a 70 dBu signal over the entire Tuscola area. *See Exhibit B*. Accordingly, Faircom’s instant proposal is a

⁴ *Community of License MO&O*, 5 FCC Rcd 7096.

⁵ *Rand McNally Commercial Atlas and Marketing Guide*, p. 383 (124th ed. 1993).

“win-win” situation for both communities, adoption of which clearly is in the public interest.

In sum, reallocation of Channel 268A from Tuscola to Clio would result in a net service benefit to both communities, and will best serve the Commission’s allocation priorities and the public interest. Favorable action on the Faircom proposal would thus be in the public interest.

II. CONCLUSION

For the reasons stated above, the public interest will be served by the allotment of Channel 268A to Clio, Michigan, as its first local aural service. Accordingly, Faircom respectfully requests the Commission institute a rulemaking proceeding that would amend the FM Table of Allotments as follows:

CITY	PRESENT ALLOTMENT	PROPOSED ALLOTMENT
Tuscola, Michigan	268A	---
Clio, Michigan	---	268A

Respectfully submitted,

FAIRCOM FINT/INC.

By: 

Lee W. Shubert

Rafael G. Prohias

Its Attorneys

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703/841-0606

January 23, 1998

Exhibit A

Petition for Rulemaking

The following engineering statement and attached exhibits have been prepared for Faircom Flint, Inc., licensee of FM broadcast station WWBN at Tuscola, Michigan, and are in support of their Petition for Rulemaking to modify Section 73.202(b), Table of Allotments, of the Federal Communications Commission Rules and Regulations.

The petitioner requests that the Table of Allotments be modified as follows:

<u>City</u>	<u>Existing</u>	<u>Proposed</u>
Tuscola, MI	268A	_____
Clio, MI	_____	268A

As shown on the attached single channel study, the proposed allotment may be allocated to Clio with a site restriction of 9.60 kilometers North Northwest of the city. It should be noted that the single channel spacing study indicates a short spacing to a vacant Canadian allotment at Sarnia, Ontario. For purposes of the allocation, the reference coordinates will be 43° 15' 47" North and 83° 45' 40" West for Clio, Michigan.

Under MM Docket 95-7, the Commission notes that the allocation at Tuscola is a specially negotiated short-spaced allotment with regard to Sarnia, Ontario. From the current reference site for the Tuscola allocation, the Sarnia allotment is 115.65 kilometers distant. It should be noted from the attached

single channel study that this distance is not reduced by the change in community of license to Clio.

Clio is an incorporated city with a 1990 population of 2,629 persons, while Tuscola is an unincorporated township. Tuscola does not appear on any commercially printed map. In the Michigan Census Guide, Tuscola is listed only as an unincorporated township.

Therefore, it is believed that the public interest would be better served by allocating channel 268A to Clio as a first local service, instead of keeping the allocation at the unincorporated region of Tuscola.

The preceding statement and attached exhibits have been prepared by me or under my direction and are true and accurate to the best of my belief and knowledge.

11/06/97
Date



Jeremy D. Ruck, Consulting Engineer

Single Channel Study For: Clio, MI On Ch. 268 A -101.5 Mhz.

States Searched: MI,WI,OH,IN,IL,PA,ON,QU
Run Date: 11-06-1997

43° 15' 47" N.
83° 45' 40" W.

CHANNEL	ALLOTMENT OR STATION	CLASS	CALCULATED - REQUIRED KM. (MI.)	BEARING Deg. T.
214	NO CONFLICT			
215	NO CONFLICT			
265	NO CONFLICT			
266 WRIF	LIC Detroit	MI B	97.42(60.53) 69	154.50
266 WRIF	LIC Detroit	MI B	97.42(60.53) 69	154.50
266	USED Detroit	MI B	97.42(60.53) 69	154.50
267 WCUZ-FM	CP Grand Rapids	MI B	145.00(90.10) 113	260.80
267 WCUZ-FM	LIC Grand Rapids	MI B	132.19(82.14) 113	259.80
267	USED Grand Rapids	MI B	132.19(82.14) 113	259.80
268	USED Tuscola	MI A *	0.48(0.30) 115	16.20
268 WBN	LIC Tuscola	MI A *	20.90(12.98) 115	87.80
268 WBN	CP Tuscola	MI A *	20.76(12.90) 115	88.30
268 WRVF	LIC Toledo	OH B	177.73(110.44) 178	170.60
268	USED Toledo	OH B	177.78(110.47) 178	170.70
268	Sarnia	ON A *	115.65(71.86) 180	105.80
269 WPRJ	LIC Coleman	MI A	83.40(51.82) 72	317.30
269	USED Coleman	MI A	83.40(51.82) 72	317.30
269 WHZZ	LIC Lansing	MI A	88.13(54.76) 72	227.10
269 WHZZ	CP MOD Lansing	MI A	85.49(53.12) 72	226.10
269	USED Lansing	MI A	88.82(55.19) 72	222.90
270	NO CONFLICT			
271 WLEW-FM	LIC Bad Axe	MI C2	86.71(53.88) 55	36.10

*-Short Spaced

Only listings with clearances less than 32 Km. are shown.

This study utilized a copy of the FCC FM Database as published monthly by the National Technical Information Service. D. L. Markley & Associates, Inc. believes this information to be accurate and current. However, D. L. Markley & Associates, Inc. does not assume any responsibility for any erroneous or incomplete data furnished as part of that database.

Exhibit B

Supplemental Petition for Rulemaking Information

The following engineering statement and attached exhibits have been prepared for Faircom Flint, Inc., licensee of FM broadcast station WWBN(FM) at Tuscola, Michigan, and contain supplemental population information for a petition for rulemaking to change the WWBN allocation from Tuscola, Michigan to Clio, Michigan.

With the present site authorized for WWBN, the predicted population within the 60 dBu (1.0 mV/m) F(50,50) service contour is 185,129 persons. This information can be found in the Commission's files in an application filed in March of 1997 under the file number of BPH-970328IG.

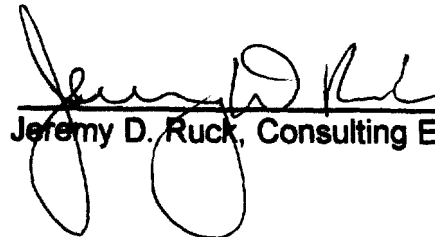
If the WWBN transmitter were to be located at the reference site proposed for the allocation at Clio, Michigan, it has been predicted that 369,186 persons would reside within the protected WWBN service area. This population value represents an increase of 184,057 persons, nearly double the amount currently inside the service area.

Attached to this statement is a breakdown by county of the population that would be served. This population count was determined using the 1990 census, and was sampled on a block level.

In addition, there are two maps attached to this statement that depict the predicted WWBN coverage from both the authorized site, and the allocation site. As these maps indicate, the unincorporated village of Tuscola will continue to be served by a city grade signal.

The preceding statement and attached exhibits have been prepared by me, or under my direction, and are true and accurate to the best of my belief and knowledge.

Dec 10, 1997
Date


Jeremy D. Ruck, Consulting Engineer

1990 Population Count

Title: WWBN-Clio, MI Site (Reference)
Audit File: pcx12087.A01

Latitude: 43-15-47
Longitude: 83-45-40

Azimuth	Dist (km)	Azimuth	Dist (km)	Azimuth	Dist (km)
0.00	29.60	45.00	29.10	90.00	27.00
135.00	24.90	180.00	26.70	225.00	28.80
270.00	30.10	315.00	30.10		

Block Level Count Displayed by City and State
Area of contour : 2523.072 square km
Area of contour : 974.164 square mi

1990 Population Count

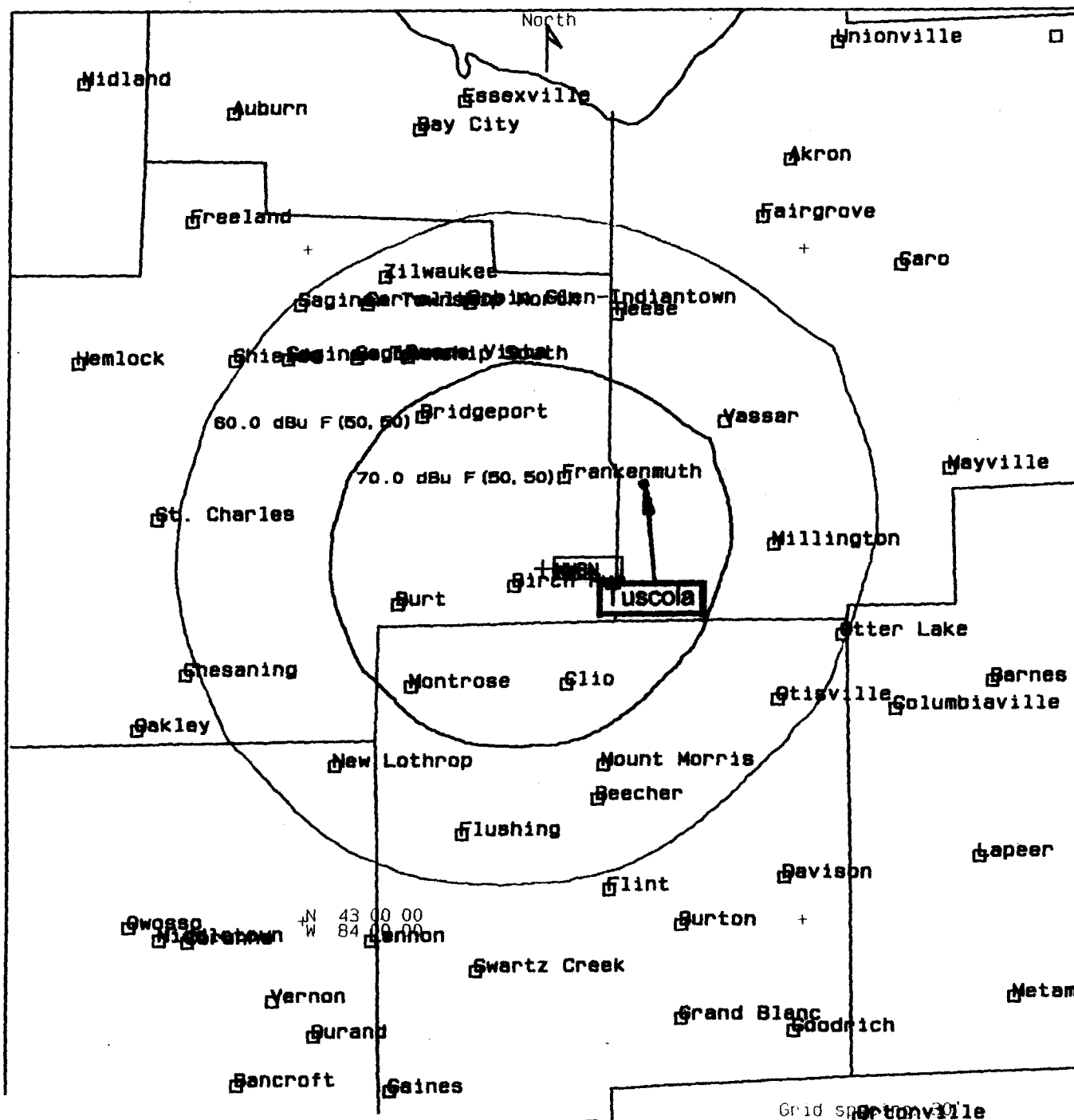
Title: WWBN-Clio, MI Site (Reference)

Latitude: 43-15-47

Audit File: pcx12087.A01

Longitude: 83-45-40

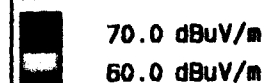
	Houses	Total	White	Hisp	Black	Asian	AmIn	other
Michigan, Bay County								
County Total:	407	1062	1044	16	0	1	1	0
Michigan, Genesee County								
County Total:	66741	176176	108197	3479	62504	780	1056	160
Michigan, Lapeer County								
County Total:	232	722	711	7	1	0	3	0
Michigan, Saginaw County								
County Total:	65830	167362	117368	12274	35954	1006	618	142
Michigan, Shiawassee County								
County Total:	681	2001	1959	27	1	0	14	0
Michigan, Tuscola County								
County Total:	7942	21863	21172	354	180	73	82	2
State Total :	141833	369186	250451	16157	98640	1860	1774	304



SHDMAP (tm) - EDX Engineering, Inc

Propagation model: FCC-FCC
 Time: 50.00% Loc: 50.00% Margin: .0 dB
 Climate: Continental Temperate
 Gndcvr: None
 Atm. factor: None
 K Factor: 1.333
 RX Antenna - Type: OMNI
 Height: 9.1 mtrs AGL Gain: .0 dBd

Field Strength Levels (base-to-mobile):



Minimum signal level: 10.0 dBuV/m

Site	Ant Elv ANSL (mtrs)	ERPd (dBm)	Ant. Type /Orient.	Coordinates
WWBN	299.4	37.78	OM-H	N 43 15 47.0 W 83 45 40.0
	101.5000 MHz			



WWBN Coverage Area

From Clio Reference Site

December, 1997

